

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

EARLINE WASHINGTON

PLAINTIFF

VS.

CAUSE NO. 3:21-cv-732-KHJ-MTP

**OFFICE DEPOT, INC., d/b/a
OFFICE DEPOT BUSINESS SOLUTIONS, LLC;
OFFICEMAX, INC., d/b/a OFFICEMAX NORTH AMERICA, INC.
and JOHN DOES PERSON 1-5**

DEFENDANTS

NOTICE OF REMOVAL

TO: Stephanie H. Baird, Esq.
SCHWARTZ & ASSOCIATES, PA
P.O. Box 3949
Jackson, MS 39207-3949

Zack Wallace, Circuit Clerk
Hinds County Circuit Court
P.O. Box 327
Jackson, Mississippi 39205

PLEASE TAKE NOTICE that this Notice of Removal and the exhibit attached hereto have been filed this day in the United States District Court for the Southern District of Mississippi, Northern Division, for an on behalf of the Defendants, Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC. You are hereby served with a copy of this Notice of Removal of said cause to the United States District Court for the Southern District of Mississippi, Northern Division, and you will be mindful of the provisions of 28 U.S.C. § 1441, *et seq.* Please take notice hereof and govern yourselves accordingly. As its short and plain statement of the grounds for removal of this civil action, the Defendant would show unto the Court the following:

1. Defendants, Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC, pursuant to 28 U.S.C. Section 1446, hereby notices removal of this civil action to the United States District Court for the

Southern District of Mississippi, Northern Division. This case originally was filed by the Plaintiff in the Hinds County Court, First Judicial District, Mississippi, a certain civil action styled, "Earline Washington v. Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC, and John Does Person 1-5" being Civil Action No. 21-564-EFP on the docket of said court. Plaintiff's Complaint is attached hereto as *Exhibit "A"*.

2. The United States District Court for the Southern District of Mississippi, Northern Division, embraces the county in which the State Court Action is now pending. Therefore, removal is proper to this Court pursuant to §28 U.S.C. §§ 104 (b)(3) and 1441 (a).

3. The basis of removal is the existence of diversity of citizenship between the Plaintiff the Defendant with an amount in controversy exceeding \$75,000.00, which gives this Court jurisdiction pursuant to 28 U.S.C. §§ 1332 and 1441.

Removal is Based Upon Diversity Jurisdiction

4. Citizenship of the parties is determined as of the time the Complaint is filed. *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 571 (2004).

5. The Plaintiff alleges in the Complaint that she "is an adult resident citizen of Hinds County, Mississippi." *See Exhibit "A"* at 1.

6. The Defendants, Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC, has a principal place of business located in Florida. Furthermore, Defendants, Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC, is not incorporated in the state of Mississippi. *See id.*

7. Because Plaintiff and Defendant are citizens of different States, in accordance with 28 U.S.C. §1332, complete diversity is satisfied.

Removal is Timely

8. The attached certified record of the Hinds County Court is provided pursuant to 28 U.S.C. § 1446(a). Service of process was made pursuant to the *Mississippi Civil Rules of Civil Procedure* upon the Defendants, Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC, no sooner than October 12, 2021, therefore, thirty (30) days have not elapsed since service of process on this Defendant.

9. Contemporaneously with the filing of this notice of removal, Defendant is filing a copy of same with the Clerk of the County Court of Hinds County, Mississippi First Judicial District, in accordance with 28 U.S.C. §1446 (d). Additionally, written notice of the removal is being given to all parties. *Id.*

WHEREFORE, Defendants, Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC, respectfully requests that this Court proceed with the handling of this case as if it was originally filed herein. The Defendant further requests any such other relief as this Court deems just.

RESPECTFULLY SUBMITTED, this the 10th day of **November, 2021**.

**OFFICE DEPOT, INC., d/b/a OFFICE
DEPOT BUSINESS SOLUTIONS, LLC,
OFFICEMAX, INC., d/b/a OFFICEMAX
NORTH AMERICA, INC.,
MISIDENTIFIED AS OFFICE DEPOT,
LLC, DEFENDANT**

BY: */s/ J. Scott Rogers*
J. SCOTT ROGERS

OF COUNSEL:

J. Scott Rogers, Esq. (MSB No. 100014)
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CERTIFICATE OF SERVICE

I, J. Scott Rogers, the undersigned counsels of record for the Defendants, Office Depot, Inc., d/b/a Office Depot Business Solutions, LLC, OfficeMax, Inc., d/b/a OfficeMax North America, Inc., misidentified as Office Depot, LLC, do hereby certify that I have this date electronically filed the foregoing document with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Stephanie H. Baird, Esq. (#103283)
SCHWARTZ & ASSOCIATES, PA
P.O. Box 3949
Jackson, MS 39207-3949
sbaird@1call.org
Attorney for Plaintiff

SO CERTIFIED this 10th day of November, 2021.

/s/ J. Scott Rogers
J. SCOTT ROGERS